

AMENDED IN ASSEMBLY JUNE 15, 2016

AMENDED IN SENATE AUGUST 18, 2015

**SENATE BILL**

**No. 139**

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**Introduced by Senator Galgiani**  
(Principal coauthor: Assembly Member Lackey)

January 26, 2015

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An act to ~~repeal and~~ amend Sections 11357.5 and 11375.5 ~~of of, and~~ to add Section 11375.7 to, the Health and Safety Code, and to amend Section 1000.5 of the Penal Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 139, as amended, Galgiani. Controlled substances.

Existing law makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, distribute, furnish, administer, or give, or possess for sale, any synthetic stimulant compound or any specified synthetic stimulant derivative. Existing law also makes it a misdemeanor to sell, dispense, distribute, furnish, administer, or give, or offer to sell, dispense, distribute, furnish, administer, or give, or possess for sale, any synthetic cannabinoid compound or any synthetic cannabinoid derivative. Existing law, beginning January 1, 2016, makes it an infraction to use or possess those drugs.

This bill would ~~instead make it an infraction to use or possess those drugs beginning on the effective date of this bill. The bill would also~~ expand the definition of a synthetic stimulant compound and a synthetic cannabinoid compound for purposes of existing law. *The bill would provide that a first offense of using or possessing these substances is punishable as an infraction, a 2nd offense is punishable as an infraction*

*or a misdemeanor, and a 3rd or subsequent offense is punishable as a misdemeanor. By expanding the scope of existing crimes and by increasing the penalty for existing crimes, the bill would impose a state-mandated local program.*

*Existing law authorizes the court, together with the district attorney and public defender, to conduct a preguilty plea drug court program pursuant to specified provisions in which proceedings are suspended without a plea of guilty for designated defendants. Existing law sets forth procedures that apply to these programs.*

*This bill would authorize a person charged with certain crimes relating to synthetic stimulant compounds or synthetic cannabinoid compounds to be eligible to participate in those preguilty plea drug court programs. The bill would set forth additional procedures that would apply in determining eligibility and compliance with the program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 11357.5 of the Health and Safety Code,~~  
2     ~~as amended by Section 1 of Chapter 372 of the Statutes of 2014,~~  
3     ~~is repealed.~~

4     SECTION 1. *The Legislature finds and declares all of the*  
5     *following:*

6     (a) *Drug addiction or dependence is a chronically relapsing*  
7     *disease or condition.*

8     (b) *The benefits of drug treatment are cumulative and the fact*  
9     *that a person has not completed a prior program or course of*  
10    *treatment does not establish that the person would not benefit from*  
11    *further or additional treatment.*

12    SEC. 2. ~~Section 11357.5 of the Health and Safety Code, as~~  
13    ~~added by Section 2 of Chapter 372 of the Statutes of 2014, Code~~  
14    is amended to read:

11357.5. (a) Every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, or possesses for sale any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, to any person, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Every person who uses or possesses any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, is guilty of an infraction, punishable by a fine not to exceed two hundred fifty dollars (\$250); a public offense, punishable as follows:

(1) A first offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250).

(2) A second offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250) or a misdemeanor punishable by imprisonment in a county jail not exceeding six months, a fine not exceeding five hundred dollars (\$500), or by both that fine and imprisonment.

(3) A third or subsequent offense is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.

(c) As used in this section, the term “synthetic cannabinoid compound” refers to any of the following substances:

(1) Adamantoylindoles or adamantoylindazoles, which includes adamantyl carboxamide indoles and adamantyl carboxamide indazoles, or any compound structurally derived from 3-(1-adamantoyl)indole, 3-(1-adamantoyl)indazole, 3 - ( 2 - a d a m a n t o y l ) i n d o l e , N-(1-adamantyl)-1H-indole-3-carboxamide, or N-(1-adamantyl)-1H-indazole-3-carboxamide by substitution at the nitrogen atom of the indole or indazole ring with alkyl, haloalkyl, alkenyl, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group, whether or not further substituted in the indole or indazole ring to any extent and whether

1 or not substituted in the adamantyl ring to any extent, including,  
2 but not limited to, 2NE1, 5F-AKB-48, AB-001, AKB-48,  
3 AM-1248, JWH-018 adamantyl carboxamide, STS-135.

4 (2) Benzoylindoles, which includes any compound structurally  
5 derived from a 3-(benzoyl)indole structure with substitution at the  
6 nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl,  
7 hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
8 1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl)ethyl, or  
9 1-(N-methyl-2-pyrrolidinyl)methyl,  
10 1-(N-methyl-3-morpholinyl)methyl, or  
11 (tetrahydropyran-4-yl)methyl group, whether or not further  
12 substituted in the indole ring to any extent and whether or not  
13 substituted in the phenyl ring to any extent, including, but not  
14 limited to, AM-630, AM-661, AM-679, AM-694, AM-1241,  
15 AM-2233, RCS-4, WIN 48,098 (Pravadoline).

16 (3) Cyclohexylphenols, which includes any compound  
17 structurally derived from 2-(3-hydroxycyclohexyl)phenol by  
18 substitution at the 5-position of the phenolic ring by alkyl,  
19 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
20 cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl,  
21 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
22 1-(N-methyl-3-morpholinyl)methyl, or  
23 (tetrahydropyran-4-yl)methyl group, whether or not further  
24 substituted in the cyclohexyl ring to any extent, including, but not  
25 limited to, CP 47,497, CP 55,490, CP 55,940, CP 56,667,  
26 cannabicyclohexanol.

27 (4) Cyclopropanoylindoles, which includes any compound  
28 structurally derived from 3-(cyclopropylmethanoyl)indole,  
29 3-(cyclopropylmethanone)indole, 3-(cyclobutylmethanone)indole  
30 or 3-(cyclopentylmethanone)indole by substitution at the nitrogen  
31 atom of the indole ring, whether or not further substituted in the  
32 indole ring to any extent, whether or not substituted on the  
33 cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent.

34 (5) Naphthoylindoles, which includes any compound structurally  
35 derived from 3-(1-naphthoyl)indole or  
36 1H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen  
37 atom of the indole ring by alkyl, haloalkyl, cyanoalkyl,  
38 hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
39 1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl)ethyl group,  
40 1-(N-methyl-2-pyrrolidinyl)methyl,

1 1-(N-methyl-3-morpholinyl)methyl, or  
2 (tetrahydropyran-4-yl)methyl group, whether or not further  
3 substituted in the naphthyl ring to any extent, including, but not  
4 limited to, AM-678, AM-1220, AM-1221, AM-1235, AM-2201,  
5 AM-2232, EAM-2201, JWH-004, JWH-007, JWH-009, JWH-011,  
6 JWH-015, JWH-016, JWH-018, JWH-019, JWH-020, JWH-022,  
7 JWH-046, JWH-047, JWH-048, JWH-049, JWH-050, JWH-070,  
8 JWH-071, JWH-072, JWH-073, JWH-076, JWH-079, JWH-080,  
9 JWH-081, JWH-082, JWH-094, JWH-096, JWH-098, JWH-116,  
10 JWH-120, JWH-122, JWH-148, JWH-149, JWH-164, JWH-166,  
11 JWH-180, JWH-181, JWH-182, JWH-189, JWH-193, JWH-198,  
12 JWH-200, JWH-210, JWH-211, JWH-212, JWH-213, JWH-234,  
13 JWH-235, JWH-236, JWH-239, JWH-240, JWH-241, JWH-242,  
14 JWH-258, JWH-262, JWH-386, JWH-387, JWH-394, JWH-395,  
15 JWH-397, JWH-398, JWH-399, JWH-400, JWH-412, JWH-413,  
16 JWH-414, JWH-415, JWH-424, MAM-2201, WIN 55,212.

17 (6) Naphthoynaphthalenes, which includes any compound  
18 structurally derived from naphthalene-1-yl-(naphthalene-1-yl)  
19 methanone with substitutions on either of the naphthalene rings  
20 to any extent, including, but not limited to, CB-13.

21 (7) Naphthoylpyrroles, which includes any compound  
22 structurally derived from 3-(1-naphthoyl)pyrrole by substitution  
23 at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl,  
24 cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
25 cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl,  
26 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
27 1-(N-methyl-3-morpholinyl)methyl, or  
28 (tetrahydropyran-4-yl)methyl group, whether or not further  
29 substituted in the pyrrole ring to any extent and whether or not  
30 substituted in the naphthyl ring to any extent, including, but not  
31 limited to, JWH-030, JWH-031, JWH-145, JWH-146, JWH-147,  
32 JWH-150, JWH-156, JWH-243, JWH-244, JWH-245, JWH-246,  
33 JWH-292, JWH-293, JWH-307, JWH-308, JWH-309, JWH-346,  
34 JWH-348, JWH-363, JWH-364, JWH-365, JWH-367, JWH-368,  
35 JWH-369, JWH-370, JWH-371, JWH-373, JWH-392.

36 (8) Naphthylmethylenes, which includes any compound  
37 containing a naphthylideneindene structure or which is structurally  
38 derived from 1-(1-naphthylmethyl)indene with substitution at the  
39 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl,  
40 hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,

1 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or  
2 1-(N-methyl-2-pyrrolidinyl)methyl,  
3 1-(N-methyl-3-morpholinyl)methyl, or  
4 (tetrahydropyran-4-yl)methyl group, whether or not further  
5 substituted in the indene ring to any extent and whether or not  
6 substituted in the naphthyl ring to any extent, including, but not  
7 limited to, JWH-171, JWH-176, JWH-220.

8 (9) Naphthylmethylindoles, which includes any compound  
9 structurally derived from an H-indol-3-yl-(1-naphthyl) methane  
10 by substitution at the nitrogen atom of the indole ring by alkyl,  
11 haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
12 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
13 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
14 1-(N-methyl-3-morpholinyl)methyl, or  
15 (tetrahydropyran-4-yl)methyl group, whether or not further  
16 substituted in the indole ring to any extent and whether or not  
17 substituted in the naphthyl ring to any extent, including, but not  
18 limited to, JWH-175, JWH-184, JWH-185, JWH-192, JWH-194,  
19 JWH-195, JWH-196, JWH-197, JWH-199.

20 (10) Phenylacetylindoles, which includes any compound  
21 structurally derived from 3-phenylacetylindole by substitution at  
22 the nitrogen atom of the indole ring with alkyl, haloalkyl,  
23 cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
24 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
25 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl,  
26 1-(N-methyl-3-morpholinyl)methyl, or  
27 (tetrahydropyran-4-yl)methyl group, whether or not further  
28 substituted in the indole ring to any extent and whether or not  
29 substituted in the phenyl ring to any extent, including, but not  
30 limited to, cannabipiperidiethanone, JWH-167, JWH-201,  
31 JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207,  
32 JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-250,  
33 JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305,  
34 JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315,  
35 JWH-316, RCS-8.

36 (11) Quinolinyndolecarboxylates, which includes any  
37 compound structurally derived from  
38 quinolin-8-yl-1H-indole-3-carboxylate by substitution at the  
39 nitrogen atom of the indole ring with alkyl, haloalkyl, benzyl,  
40 halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl,

1 cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl,  
2 (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or  
3 not further substituted in the indole ring to any extent, whether or  
4 not substituted in the quinoline ring to any extent, including, but  
5 not limited to, BB-22, 5-Fluoro-PB-22, PB-22.

6 (12) Tetramethylcyclopropanoylindoles, which includes any  
7 compound structurally derived from  
8 3-tetramethylcyclopropanoylindole,  
9 3-(1-tetramethylcyclopropyl)indole,  
10 3-(2,2,3,3-tetramethylcyclopropyl)indole or  
11 3-(2,2,3,3-tetramethylcyclopropylcarbonyl)indole with substitution  
12 at the nitrogen atom of the indole ring by an alkyl, haloalkyl,  
13 cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl,  
14 cycloalkylethyl, 1-(N-methyl-2-piperidiny)methyl,  
15 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl,  
16 1-(N-methyl-3-morpholinyl)methyl, or  
17 (tetrahydropyran-4-yl)methyl group whether or not further  
18 substituted in the indole ring to any extent and whether or not  
19 substituted in the tetramethylcyclopropanoyl ring to any extent,  
20 including, but not limited to, 5-bromo-UR-144, 5-chloro-UR-144,  
21 5-fluoro-UR-144, A-796,260, A-834,735, AB-034, UR-144,  
22 XLR11.

23 (13) Tetramethylcyclopropane-thiazole carboxamides, which  
24 includes any compound structurally derived from  
25 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide  
26 by substitution at the nitrogen atom of the thiazole ring by alkyl,  
27 haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy,  
28 cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl,  
29 (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or  
30 2-(4-morpholinyl)alkyl, whether or not further substituted in the  
31 thiazole ring to any extent, whether or not substituted in the  
32 tetramethylcyclopropyl ring to any extent, including, but not limited  
33 to, A-836,339.

34 (14) Unclassified synthetic cannabinoids, which includes all of  
35 the following:

36 (A) AM-087, (6aR,10aR)-3-(2-methyl-6-bromohex-2-yl)-6,6,9-  
37 trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

38 (B) AM-356, methanandamide, including (5Z,8Z,11Z,14Z)-N-  
39 [(1R)-2-hydroxy-1-methylethyl]icosa-5,8,11,14-tetraenamide and  
40 arachidonyl-1'-hydroxy-2'-propylamide.

- 1 (C) AM-411, (6aR,10aR)-3-(1-adamantyl)-6,6,9-trimethyl-6  
2 a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.
- 3 (D) AM-855, (4aR,12bR)-8-hexyl-2,5,5-trimethyl-1  
4 ,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol.
- 5 (E) AM-905, (6aR,9R,10aR)-3-[(E)-hept-1-enyl]-9-(hydrox  
6 ymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydroben  
7 zo[c]chromen-1-ol.
- 8 (F) AM-906, (6aR,9R,10aR)-3-[(Z)-hept-1-enyl]-9-(hydrox  
9 ymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydroben  
10 zo[c]chromen-1-ol.
- 11 (G) AM-2389, (6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6  
12 a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1  
13 ,9 diol.
- 14 (H) BAY 38-7271, (-)-(R)-3-(2-Hydroxymethylindanyl-4-o  
15 xy)phenyl-4,4,4-trifluorobutyl-1-sulfonate.
- 16 (I) CP 50,556-1, Levonantradol, including 9-hydroxy-6-methyl-  
17 3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenant  
18 hridin-1-yl]acetate; [(6S,6aR,9R, 10aR)-9-hydroxy-6-methyl-3-[  
19 (2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahy  
20 drophenanthridin-1-yl]acetate; and [9-hydroxy-6-methyl-3-[5-  
21 phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenan  
22 thridin-1-yl]acetate.
- 23 (J) HU-210, including (6aR,10aR)-9-(hydroxymethyl)-6,6-d  
24 imethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]  
25 chromen-1-ol; [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(  
26 2-methyl octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
27 o l and 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol.
- 28 (K) HU-211, Dexanabinol, including (6aS, 10aS)-9-(hydroxy  
29 methyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-t  
30 etrahydrobenzo[c]chromen-1-ol and (6aS, 10aS)-9-(hydroxy  
31 methyl)-6,6-dimethyl- 3-(2-methyloctan-2-yl)-6a,7,10,10a-t  
32 etrahydrobenzo[c]chromen-1-ol.
- 33 (L) HU-243, 3-dimethylheptyl-11-hydroxyhexahydrocannabinol.
- 34 (M) HU-308, [(91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-  
35 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol.
- 36 (N) HU-331, 3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-m  
37 ethylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1  
38 ,4-dione.
- 39 (O) HU-336, (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-  
40 t etrahydro-1H-benzo[c]chromene-1,4(6H)-dione.



(P) JTE-907, N-(benzol[1,3]dioxol-5-ylmethyl)-7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide.

(Q) JWH-051, ((6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl)methanol.

(R) JWH-057 (6aR,10aR)-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran.

(S) JWH-133 (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran.

(T) JWH-359, (6aR,10aR)-1-methoxy-6,6,9-trimethyl-3-[(2R)-1,1,2-trimethylbutyl]-6a,7,10,10a-tetrahydrobenzo[c]chromene.

(U) URB-597 [3-(3-carbamoylphenyl)phenyl]-N-cyclohexylcarbamate.

(V) URB-602 [1,1'-Biphenyl]-3-yl-carbamic acid, cyclohexylester; OR cyclohexyl [1,1'-biphenyl]-3-ylcarbamate.

(W) URB-754 6-methyl-2-[(4-methylphenyl)amino]-4H-3,1-benzoxazin-4-one.

(X) URB-937 3'-carbamoyl-6-hydroxy-[1,1'-biphenyl]-3-yl cyclohexylcarbamate.

(Y) WIN 55,212-2, including (R)-(+)-[2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone and [2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[(1,2,3-de)-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone.

~~SEC. 3. Section 11375.5 of the Health and Safety Code, as amended by Section 3 of Chapter 372 of the Statutes of 2014, is repealed.~~

~~SEC. 4.~~

~~SEC. 3. Section 11375.5 of the Health and Safety Code, as added by Section 4 of Chapter 372 of the Statutes of 2014, Code is amended to read:~~

11375.5. (a) Every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, any synthetic stimulant compound specified in subdivision (c), or any synthetic stimulant derivative, to any person, or who possesses that compound or derivative for sale, is guilty of a misdemeanor, punishable by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Every person who uses or possesses any synthetic stimulant compound specified in subdivision (c), or any synthetic stimulant derivative, is guilty of ~~an infraction, punishable by a fine not to exceed two hundred fifty dollars (\$250).~~ *a public offense, punishable as follows:*

(1) *A first offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250).*

(2) *A second offense is an infraction punishable by a fine not exceeding two hundred fifty dollars (\$250) or a misdemeanor punishable by imprisonment in a county jail not exceeding six months, a fine not exceeding five hundred dollars (\$500), or by both that fine and imprisonment.*

(3) *A third or subsequent offense is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars (\$1,000), or by both that fine and imprisonment.*

(c) Unless specifically excepted, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, or unless listed in another schedule, subdivisions (a) and (b) apply to any material, compound, mixture, or preparation which contains any quantity of a substance, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers whenever the existence of such salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers is possible, that is structurally derived from 2-amino-1-phenyl-1-propanone by modification in one of the following ways:

(1) By substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents.

(2) By substitution at the 3-position with an alkyl substituent.

(3) By substitution at the nitrogen atom with alkyl or dialkyl groups, or by inclusion of the nitrogen atom in a cyclic structure.

(d) This section shall not prohibit prosecution under any other provision of law.

*SEC. 4. Section 11375.7 is added to the Health and Safety Code, to read:*

*11375.7. (a) Unless otherwise excluded pursuant to this section, a person charged with a misdemeanor pursuant to Section 11357.5 or 11375.5 shall be eligible to participate in a preguilty*

1 *plea drug court program, as described in Section 1000.5 of the*  
2 *Penal Code.*

3 *(b) Notwithstanding any other law, a positive test for use of a*  
4 *controlled substance, any other drug that may not be possessed*  
5 *without a prescription, or alcohol shall not be grounds for*  
6 *dismissal from the program, unless the person is not making*  
7 *progress in the program. The court shall consider any report or*  
8 *recommendation of the treatment provider in making this*  
9 *determination. It shall be presumed that a person engaged in a*  
10 *program is making progress, unless that presumption is defeated*  
11 *by clear and convincing evidence. The person may offer evidence*  
12 *or an argument that he or she would benefit from and make*  
13 *progress in a different program or mode. If the court so finds, it*  
14 *may place the person in a different treatment program.*

15 *(c) Notwithstanding any other law, the following persons are*  
16 *excluded from participation in the program under this section:*

17 *(1) Any person with a history of violence that indicates that he*  
18 *or she presents a current risk of violent behavior currently or*  
19 *during the treatment program. This ground for exclusion shall be*  
20 *established by clear and convincing evidence.*

21 *(2) Any person required to register as a sex offender pursuant*  
22 *to Section 290, unless the court finds by clear and convincing*  
23 *evidence that the person does not present a substantial risk of*  
24 *committing sexual offenses currently or through the course of the*  
25 *program and the person would benefit from the program, including*  
26 *that treatment would reduce the risk that the person would sexually*  
27 *reoffend.*

28 *(3) Any person that the treatment provider concludes is*  
29 *unamenable to any and all forms of drug treatment. The defendant*  
30 *may present evidence that he or she is amenable to treatment and*  
31 *the court may retain the person in the program if the court finds*  
32 *that the person is amenable to treatment through a different*  
33 *provider or a different mode of treatment.*

34 *(d) Notwithstanding any other law, a prior conviction for an*  
35 *offense involving a controlled substance or drug that may not be*  
36 *possessed without a prescription, including a substance listed in*  
37 *Section 11357.5 or 11375.5, is not grounds for exclusion from the*  
38 *program, unless the court finds by clear and convincing evidence*  
39 *that the person is likely to engage in drug commerce for financial*

1 *gain, rather than for purposes of obtaining a drug or drugs for*  
2 *personal use.*

3 *SEC. 5. Section 1000.5 of the Penal Code is amended to read:*

4 1000.5. (a) (1) The presiding judge of the superior court, or  
5 a judge designated by the presiding judge, together with the district  
6 attorney and the public defender, may agree in writing to establish  
7 and conduct a preguilty plea drug court program pursuant to the  
8 provisions of this chapter, wherein criminal proceedings are  
9 suspended without a plea of guilty for designated defendants. The  
10 drug court program shall include a regimen of graduated sanctions  
11 and rewards, individual and group therapy, urine analysis testing  
12 commensurate with treatment needs, close court monitoring and  
13 supervision of progress, educational or vocational counseling as  
14 appropriate, and other requirements as agreed to by the presiding  
15 judge or his or her designee, the district attorney, and the public  
16 defender. If there is no agreement in writing for a preguilty plea  
17 program by the presiding judge or his or her designee, the district  
18 attorney, and the public defender, the program shall be operated  
19 as a deferred entry of judgment program as provided in this chapter.

20 (2) *A person charged with a misdemeanor under Section 11357.5*  
21 *or 11375.5 of the Health and Safety Code shall be eligible to*  
22 *participate in a preguilty plea drug court program established*  
23 *pursuant to this chapter, as set forth in Section 11375.7 of the*  
24 *Health and Safety Code.*

25 (b) The provisions of Section 1000.3 and Section 1000.4  
26 regarding satisfactory and unsatisfactory performance in a program  
27 shall apply to preguilty plea ~~programs.~~ *programs, except as*  
28 *provided in Section 11375.7 of the Health and Safety Code.* If the  
29 court finds that (1) the defendant is not performing satisfactorily  
30 in the assigned program, (2) the defendant is not benefiting from  
31 education, treatment, or rehabilitation, (3) the defendant has been  
32 convicted of a crime specified in Section 1000.3, or (4) the  
33 defendant has engaged in criminal conduct rendering him or her  
34 unsuitable for the preguilty plea program, the court shall reinstate  
35 the criminal charge or charges. If the defendant has performed  
36 satisfactorily during the period of the preguilty plea program, at  
37 the end of that period, the criminal charge or charges shall be  
38 dismissed and the provisions of Section 1000.4 shall apply.

1     ~~SEC. 5.~~

2     ~~SEC. 6.~~ No reimbursement is required by this act pursuant to  
3 Section 6 of Article XIII B of the California Constitution because  
4 the only costs that may be incurred by a local agency or school  
5 district will be incurred because this act creates a new crime or  
6 infraction, eliminates a crime or infraction, or changes the penalty  
7 for a crime or infraction, within the meaning of Section 17556 of  
8 the Government Code, or changes the definition of a crime within  
9 the meaning of Section 6 of Article XIII B of the California  
10 Constitution.

11    ~~SEC. 6.~~

12    ~~SEC. 7.~~ This act is an urgency statute necessary for the  
13 immediate preservation of the public peace, health, or safety within  
14 the meaning of Article IV of the Constitution and shall go into  
15 immediate effect. The facts constituting the necessity are:

16    In order to prevent any harm that may be caused by the controlled  
17 substances described in this act at the earliest possible time, it is  
18 necessary that this act take effect immediately.